

**MUR # 6022**

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Leslie Byrne for Congress  
11216 Waples Mill Road, Suite #100  
Fairfax, VA 22030

**FEDERAL ELECTION COMMISSION**

In the Matter of: **Robert A. Rosenberg**  
**Scientific Applications International Corporation (SAIC)**  
**Connolly for Congress**

**RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2008 JUN -4 A 11:08**

**COMPLAINT**

1. Leslie Byrne for Congress hereby brings this complaint before the Federal Election Commission seeking an immediate FEC investigation and enforcement action against Robert Rosenberg, Scientific Applications International Corporation ("SAIC"), Gerry Connolly and Connolly for Congress for direct and serious violations of federal campaign finance law.

**Complainant**

2. Leslie Byrne for Congress is the official organization dedicated to electing Leslie L. Byrne of Falls Church, Virginia to the United States House of Representatives from the 11<sup>th</sup> District of Virginia.

**Respondents**

3. SAIC is a defense contractor based in San Diego, California and McLean, Virginia. Robert A. Rosenberg is the former general manager for Washington Operations for SAIC.
4. Connolly for Congress is the official organization dedicated to electing Gerald E. Connolly of Fairfax, Virginia, a vice-president and Director of Community Relations of SAIC, to the United States House of Representatives from the 11<sup>th</sup> District of Virginia.

**Jurisdiction**

5. The Commission has the authority to take enforcement action based on a complaint where it finds reason to believe that a person "has committed, or is about to commit, a violation of the law." 2 U.S.C. § 437g(a)(2), 437g(a)(4)(A)(i), 437g(a)(6)(A); see also 11 C.F.R. § 111.4(a) ("Any person who believes that a violation ... has occurred or is about to occur may file a complaint...") Based on information and belief, Robert A. Rosenberg, SAIC, and Connolly for Congress have committed violations of the law by directing SAIC employees to make a contribution, coercing said employees and neglecting to inform SAIC employees of their right to refuse to make political contributions without consequence. Furthermore, they have violated the law by communicating SAIC's endorsement to those beyond its restricted class and deliberately concealing that action.

**Factual Allegations**

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6. On May 14, 2008, Robert Rosenberg sent an e-mail<sup>1</sup> from his SAIC account addressed to his e-mail list entitled "Rosenberg, Robert A"; carbon copied to Amy S. Childers, assistant vice president and Director of Policy and Political Programs for SAIC, and Jay Killeen, Senior Vice President for Government Affairs for SAIC; and blind carbon-copied to an indeterminate number of SAIC e-mail accounts assigned to employees of the corporation's McLean office. The subject heading of this e-mail was "Gerry Connolly." In it, Rosenberg asked the recipients to consider supporting "one of our own, Gerry Connolly;" cited Connolly's employment with SAIC, his close understanding of the defense industry, and the need to replace retiring Representative Tom Davis with another "good friend to SAIC;" and invited the recipients to a fundraiser hosted by the Professional Services Council on Connolly's behalf on Wednesday, May 21, 2008. Rosenberg listed the suggested contribution for this event as two hundred fifty dollars (\$250) and asked recipients to consider supporting Connolly separately in the event that they could not attend.
  7. At no point in the e-mail did Rosenberg, a consultant employee and self-described "semi-retired" executive at SAIC, state that recipients had the right to decline to contribute without fear of punishment by the company. The term "consultant employee" was provided to the press by SAIC's representative and clearly establishes Mr. Rosenberg remains an employee under the law of SAIC. In fact Mr. Rosenberg refers to himself as the "Mayor of SAIC" further establishing his continued power at SAIC.
  8. Multiple SAIC employees attended the May 21, 2008 fundraiser, and raised at least \$2,700 from SAIC employees on that date for Connolly. They have subsequently disclosed a further \$1,000 from SAIC employees in 48-hour reports.

#### Count I

9. FECA prohibits corporations from making any contribution or expenditure in connection with any federal election. 2 U.S.C. §441b (a), 11 C.F.R. §114.2(a). FEC regulations further prohibit corporations, including officers, directors or other representatives acting as agents of the corporation from facilitating the making of the contributions to federal candidates. 11 C.F.R. §114.2(f)(1). Examples include using coercion, such as the threat of detrimental job action, the threat of any other financial reprisal or the threat of force, to urge any individual to make a contribution or engage in fundraising activities on behalf of a candidate or political committee. 11 C.F.R. §114.2(f) (2) (IV). Furthermore, federal election regulations render it unlawful for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal. Said notification must be explicit no matter the nature of the request for contributions. 2 U.S.C. §441b (b) (3) (C). Under 11 CFR § 114.2(d), a candidate, political committee, or other person is prohibited from knowingly accepting or receiving any contribution prohibited by 11 C.F.R. §114.2.

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<sup>1</sup> The 5/14/08 e-mail is attached as Exhibit One.

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10. A. As a former senior executive of the company who is still employed and apparently still has management responsibilities, contacting professional relations and making specific reference to the benefits that such donations would have for SAIC, while carbon copying two senior executives in Amy Childers and Jay Killeen and making specific reference to another senior executive in Roger Jordan, Robert Rosenberg apparently violated 2 U.S.C. §441(b) (a) and) 11 C.F.R. §114.2(a).
- B. In addition Mr. Rosenberg instructed those who wrote to that should they have any questions they could contact him or contact SAIC's PAC. Any reasonable employee would have concluded that Mr. Rosenberg's e-mail was a directive from SAIC to donate to the Connolly for Congress campaign and that it was clearly supported by the SAIC PAC.
- C. There was no clear statement that there would be no detrimental action taken against those who chose not to contribute, as required by 2 U.S.C. §441b (b) (3) (C) and triggering 11 C.F.R. §114.2(f) (2) (IV). In addition, the SAIC employee who hand delivered the email to the Byrne campaign was sufficiently frightened of retaliation that the employee refused to leave a name. Clearly this email was not aimed simply at the protected class and went to people who felt threatened to contribute to Mr. Connolly's campaign.
11. On information and belief, Rosenberg violated these regulations on the urging of and with the cooperation of Connolly for Congress. According to published reports in the Washington Post on May 29, 2008 ("E-mail Backing Connolly Raises Questions") ,Gerald Connolly admitted that he was aware of Robert Rosenberg's intention to organize SAIC employees on behalf of the campaign and accepted donations from SAIC employees at the May 21, 2008 fundraiser regardless, in violation of 11 CFR § 114.2(d) and a possible violation of 11 CFR §114(c)(6)(ii).<sup>2</sup> We believe Mr. Connolly's actions must also be investigated because of his admission that he was aware the illegal activities were to take place and personally sanctioned these efforts without ensuring compliance with the law.

#### Count II

12. Federal election regulations allow a corporation to communicate beyond the restricted class as defined by 11 CFR §114.1(j) through the distribution of registration and voting communications, official registration and voting information, voting records and voter guides. If they endorse, they may do so through the distribution of printed materials to members of their restricted class provided that no more than a de minimis number of copies of the publication which includes the endorsement are circulated beyond the restricted class. 11 CFR § 114.4(c)(1-6).
13. On information and belief, Robert Rosenberg and SAIC disseminated an explicit communication of endorsement beyond those members of the restricted class in clear violation of 11 CFR § 114.4(c)(1-6). Mr. Rosenberg sent out this e-mail to most of its recipients via blind carbon copy. There is reason to suspect that he did so in an effort to avoid the identification of recipients who

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<sup>2</sup> The May 29, 2008 Washington Post article is attached as Exhibit Two.

are not members of the restricted class under 11 CFR §114.1(j) and who he was thus barred from contacting.

WHEREFORE, Leslie Byrne for Congress requests that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated the federal campaign finance laws, impose sanctions appropriate to these violations and take such further action as may be appropriate, including disgorgement of unlawful contributions to Connolly for Congress as resulted from the May 21, 2008 fundraiser.

Bruce Neilson

Bruce Neilson

Treasurer, Byrne for Congress

Subscribed and sworn to before me this 2<sup>nd</sup> day of May, 2008.

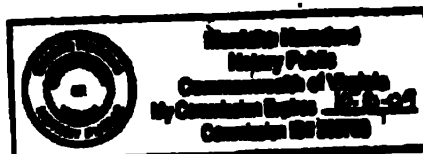
My commission expires on 10-31-2009 [Signature] 366753

Notary or Other

Notary ID #

Person Authorized to

Administer Oaths



**Exhibit 1**

280442210

**From:** Rosenberg, Robert A.  
**Sent:** Wednesday, May 14, 2008 4:45 PM  
**To:** Rosenberg, Robert A.  
**Cc:** Childers, Amy S.; Kileen, Jay  
**Subject:** Gerry Connolly

14 May 2008

Dear Fellow SAIC Teammates:

As your former National Capitol Region General Manager (now in semi-retirement following my cancer surgery six years ago and doing fine thank you), I miss the frequent contact I had with so many of you, but still follow the victories you have at SAIC with great admiration and good wishes for continued successes!

I am writing to you today to ask that you consider supporting one of our own, Gerry Connolly, a great leader, in his bid to represent both SAIC and the residents of Virginia's 11<sup>th</sup> district in the US House of Representatives. I am reaching out to you to tell you more about Gerry's campaign, to tell you why I feel he is the right person for this vital leadership position, and to bring your attention to an opportunity to help Gerry in his election.

Gerry joined us when I was your General Manager, has been with SAIC for over six years and currently serves as the Director of Community Relations in McLean. This is a natural fit for Gerry given his commitment to the Fairfax County community and public service in the National Capitol Region. In addition to his duties at SAIC, Gerry currently serves as Chairman of the Fairfax County Board of Supervisors.

Virginia's 11<sup>th</sup> district is home to SAIC's McLean campus and to many SAIC employees. Representative Tom Davis currently serves the district and has been a good friend to SAIC and our industry during his tenure in the US Congress. Representative Davis announced his retirement earlier this year and will be sorely missed. His departure creates a great void in the US Congress as he was one of the few Members that really understood issues related to government contracting and the intricacies often associated with our industry. Gerry Connolly, given his 28 years employment in and in depth understanding of our industry, is the only candidate running for this election who can step up and strongly help fill the void created by Tom Davis' departure. That, coupled with his strong sense of ethics, integrity, professionalism and high values makes Gerry one I genuinely admire and want to see serving our country in the Congress!

The Professional Services Council is hosting a fundraiser for Gerry on Wednesday, May 21<sup>st</sup> at 7:00 p.m. I fully support this event and hope that you will too. The event is being held at 7706 Carlton Place in McLean, VA, less than 10 minutes from SAIC's McLean Towers. A number of our colleagues from industry are expected to attend this event and if interested, I hope that you will also consider attending and showing your support for Gerry as he has supported SAIC. The suggested contribution for this event is \$250. You can RSVP to Roger Jordan at [redacted] or [Jordan@pscouncil.org](mailto:Jordan@pscouncil.org).

If you have any questions regarding my email please reply to me or send your query to the VPAC email address ([vpac@saic.com](mailto:vpac@saic.com))

If you are unable to attend the event on the 21<sup>st</sup> of May, please consider supporting Gerry separately, you can visit his website at <http://gerryconnolly.com/> or send contributions to Gerry Connolly for Congress 2008 at PO Box 563, Merrifield, VA 22116.

Lastly, please don't forget to vote. June 10<sup>th</sup> is Election Day in Virginia for the congressional primaries. Whether you live in the 11<sup>th</sup> District or elsewhere, please take the opportunity to exercise your right to vote on Election Day.

5/16/2008

01/21/2007 07:11 FAX

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Warmest Regards from your old "Mayor"  
Rozie Rosenberg

Get directions to the May 21<sup>st</sup> event: [Click Here](#).

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5/16/2008

## Exhibit 2

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## E-Mail Backing Connolly Raises Questions

Consultant for Firm Asks Its Employees to Donate to Va. Congressional Candidate

By Amy Gardner  
Washington Post Staff Writer  
Thursday, May 29, 2008; B01

A senior executive at the government contractor Science Applications International Corp. has encouraged employees to contribute to Democratic congressional candidate Gerald E. Connolly, raising questions about whether the solicitation violated federal campaign finance rules.

In an e-mail this month to "fellow SAIC teammates," Robert A. Rosenberg, a former executive vice president and general manager for SAIC's Northern Virginia operations whom the company calls a "consulting employee," urged colleagues to support Connolly in part because of his "in-depth understanding of our industry."

Connolly, who is chairman of the Fairfax County Board of Supervisors, works part time for SAIC as a vice president for community relations.

SAIC spokeswoman Melissa L. Koskovich said Rosenberg sent the e-mail only to executives, administrators, stockholders and their families, as is allowed by Federal Election Commission regulations. She did not say how many people received the e-mail. Nor is it known whether any recipients felt compelled to donate because of Rosenberg's senior status.

Connolly said he had nothing to do with the solicitation, though he knew Rosenberg was planning it.

"I was aware of the fact that he was going to organize something for some SAIC employees who wanted to be supportive," Connolly said.

The solicitation falls into a gray area of campaign finance law, said Allison Hayward, a law professor at George Mason University and a former FEC lawyer. Corporate contributions are illegal in federal campaigns, as is coercing employees to donate. That doesn't prevent individuals from urging colleagues to support a particular candidate, unless the solicitation appears to be on behalf of the company, she said.

Rosenberg's e-mail raises questions because it was sent to employees with whom he has professional relationships as opposed to personal friends, Hayward said. It also focuses on Connolly's knowledge of the contracting business and what he could do for SAIC if elected to Congress, she said.

"Individuals don't lose their ability to talk to their friends and colleagues at work, including asking them to vote for a favorite candidate," Hayward said. "But the more broadly he's soliciting people that maybe he knows only slightly, and if he's clearly using a corporate list, I think that is a fact that shows this isn't his personal political activity."

Rosenberg could not be reached for comment yesterday.

Connolly faces three other Democrats in the 11th Congressional District primary June 10: former congresswoman Leslie L. Byrne, former Navy fighter pilot Douglas J. Denny and physical therapist Lori P. Alexander.

Connolly leads his rivals in money raised partly because of strong support he has received from the defense contracting interests that have backed Rep. Tom Davis (R), who is retiring.

Byrne said she intends to file a complaint today with the FEC against SAIC, Rosenberg and Connolly. She also repeated her criticism of Connolly for continuing to be employed by SAIC, a company with business in Iraq, while campaigning against the Iraq war and war profiteering. She said Connolly should return all contributions from SAIC employees.

"He's continually talked about how he's against the war, and this company has turned into an ATM machine for his run for Congress," Byrne said.

Connolly said his employment with SAIC is well known in Fairfax, where voters have elected him repeatedly and by wide margins.

He also said he is considering lodging an FEC complaint against the Byrne campaign, based on what he views as evidence that her campaign colluded with the pro-woman political action committee Emily's List. Emily's List mailed an advertisement this year that the Byrne campaign reviewed and helped fund. This week, it distributed another ad by mail that called Connolly a "pay-to-play" politician who helps business interests who contribute to his campaigns — a phrase that Byrne often uses on the campaign trail.

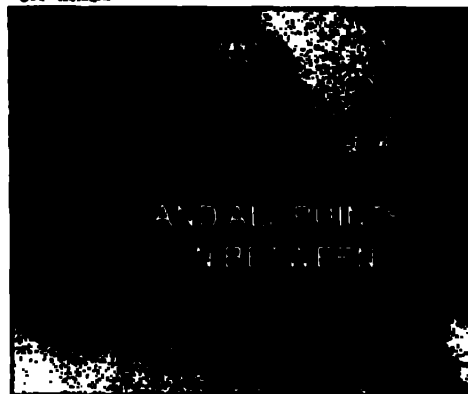
Under federal election rules, political groups that make third-party expenditures on behalf of candidates may not coordinate their efforts with campaigns.

"There is a lot of evidence that the line has been crossed," Connolly said.

Byrne responded: " 'Pay to play' is not anything that I made up or that Emily's List made up. It talks about a specific behavior, and that behavior fits Gerry Connolly."

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